

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

STEVEN J. BENNETT,	
	JURY TRIAL DEMANDED
Plaintiff,	
v.	THE HONORABLE
TROOPER JAIME LOPEZ, in his individual	A. RICHARD CAPUTO
capacity and TROOPER GABRIEL L.	
PADUCK, in his individual capacity,	NO. 3:17-CV-02031
Defendants.	

**TROOPER JAMIE LOPEZ'S ANSWER AND AFFIRMATIVE DEFENSES**

***NOW COMES*** the Defendant, Trooper Jamie Lopez, by and through undersigned counsel, Harry T. Coleman, Esquire and hereby answers the Plaintiff's Amended Complaint (Doc. 15) as follows:

**I. INTRODUCTION**

1. Admitted in part and denied in part. It is admitted the matter is styled as alleged. It is denied any violations of federal or Pennsylvania law occurred.

**II. JURISDICTION AND VENUE**

2. The above paragraphs are incorporated herein by reference.
3. Admitted.
4. Admitted.

5. Admitted.

### **III. THE PARTIES**

6. The above paragraphs are incorporated herein by reference.

7. Admitted.

8. Admitted.

9. The allegations of this paragraph are not directed to Answering Defendants and no response is required or provided.

10. Denied.

11. Admitted.

12. Admitted.

13. Denied.

### **IV. STATEMENT OF CLAIM**

14. The above paragraphs are incorporated herein by reference.

15. Admitted.

16. Admitted.

17. Admitted.

18. Denied.

19. Admitted.

20. Admitted.

21. Denied.

22. Admitted.

23. Admitted.

24. Admitted.

25. Denied.

26. Admitted.

27. Admitted.

28. Admitted.

29. Admitted.

30. Admitted.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

- 44. Denied.
- 45. Denied.
- 46. Denied.
- 47. Denied.
- 48. Denied.
- 49. Denied.
- 50. Admitted.
- 51. Denied.
- 52. Denied.
- 53. Denied.
- 54. Denied.
- 55. Denied.
- 56. Admitted.
- 57. Denied.
- 58. Denied.
- 59. Admitted.
- 60. Denied.
- 61. Denied.
- 62. Denied.
- 63. Admitted.
- 64. Admitted.

65. Admitted.

66. Admitted.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

**Count I**

71. Answering Defendant repeats the averments of paragraphs 1 through 70 of this Answer and incorporates same as though fully set forth at length herein.

72. Admitted.

73. Admitted.

74. Denied.

75. Denied.

76. Admitted.

77. Denied.

78. Denied.

79. Denied.

80. Denied.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

85. Denied.

86. Denied.

87. Denied.

88. Denied.

89. Denied.

90. This paragraph constitutes a conclusion of law and no answer is required. If an answer to this paragraph is needed, same is denied.

91. This paragraph constitutes a conclusion of law and no answer is required. If an answer to this paragraph is needed, same is denied.

92. Denied.

93. Denied.

**WHEREFORE**, Defendant, Trooper Jamie Lopez, respectfully requests that judgment be entered in his favor and against the Plaintiff on all claims asserted as well as an award of attorney's fees and costs.

### **Count II**

94. Answering Defendant repeats the averments of paragraphs 1 through 93 of this Answer and incorporates same as though fully set forth at length herein.

95. Denied.

96. Denied.

97. Denied.

98. Admitted.

99. Denied.

100. Denied.

101. Denied.

102. Denied.

103. Denied.

104. Denied.

105. Denied.

106. Denied.

107. Denied.

108. Denied.

109. Denied.

110. Denied.

111. This paragraph constitutes a conclusion of law and no answer is required. If an answer to this paragraph is needed, same is denied.

112. This paragraph constitutes a conclusion of law and no answer is required. If an answer to this paragraph is needed, same is denied.

113. Denied.

114. Denied.

**WHEREFORE**, Defendant, Trooper Jamie Lopez, respectfully requests that judgment be entered in his favor and against the Plaintiff on all claims asserted as well as an award of attorney's fees and costs.

**Count III**

115. Answering Defendant repeats the averments of paragraphs 1 through 114 of this Answer and incorporates same as though fully set forth at length herein.

116. Denied.

117. Denied.

118. Denied.

119. Denied.

120. Denied.

121. Denied.

122. Denied.

123. Denied.

124. Denied.

125. Denied.

**WHEREFORE**, Defendant, Trooper Jamie Lopez, respectfully requests that judgment be entered in his favor and against the Plaintiff on all claims asserted as well as an award of attorney's fees and costs.



## **V. DEMAND FOR JURY TRIAL**

126. Answering Defendant repeats the averments of paragraphs 1 through 125 of this Answer and incorporates same as though fully set forth at length herein.

127. Admitted.

**WHEREFORE**, Defendant, Trooper Jamie Lopez, respectfully requests that judgment be entered in his favor and against the Plaintiff on all claims asserted as well as an award of attorney's fees and costs.

### **FIRST AFFIRMATIVE DEFENSE**

The Plaintiff's claims and any rights to recover against Answering Defendant is barred in whole or in part by the applicable statutes of limitations, other similar statutes, contractual provisions and other fundamental principles of law including estoppel, waiver and laches.

### **SECOND AFFIRMATIVE DEFENSE**

The Plaintiff knowingly and voluntarily exposed himself to the hazards complained of, and said conduct constitutes an assumption of the risk and bars Plaintiff's claims against Answering Defendant.

### **THIRD AFFIRMATIVE DEFENSE**

The Plaintiff's Amended Complaint fails to state a cause of action upon which relief can be granted.

### **FOURTH AFFIRMATIVE DEFENSE**

In the event that the Plaintiff has already entered, or in the future enters, into any settlement with, or executes any release of any present or future defendant or third party defendant or any non-party, Plaintiff's claims against Answering Defendant are reduced by the greater of (a) the amount of consideration or payment received or to be received by Plaintiff, or (b) the proportionate or pro rata share of liability of the settled or released party or nonparty as determined pursuant to the applicable comparative negligence statute.

#### **FIFTH AFFIRMATIVE DEFENSE**

All actions taken by Answering Defendant Trooper Jamie Lopez with respect to the Plaintiff were proper, lawful, correct and in full accord with all applicable statutes, regulations, customs, laws and usages.

#### **SIXTH AFFIRMATIVE DEFENSE**

Answering Defendant is immune from liability to the Plaintiff for any of the claims asserted.

#### **SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff was not a member of any protected class and was not subjected to invidious discrimination or other denial of equal protection.

#### **EIGHTH AFFIRMATIVE DEFENSE**

The Plaintiff's claim for punitive damages is not an item or damages that are recoverable under the law against the Answering Defendant as the

claims of the Plaintiff alleged against Trooper Jamie Lopez do not rise to the level necessary to support a claim for punitive damages.

#### **NINTH AFFIRMATIVE DEFENSE**

Any act of the Answering Defendant was discretionary and was performed in good faith; consistent with his training and in keeping with the position of a Trooper with the Pennsylvania State Police.

#### **TENTH AFFIRMATIVE DEFENSE**

The Answering Defendant incorporates herein by reference 42 Pa. C.S.A. §5522, and the requirements set forth therein, as fully as though the same were here set forth at length.

#### **ELEVENTH AFFIRMATIVE DEFENSE**

Any acts of Answering Defendant were valid, discretionary and done with the requisite probable cause.

#### **TWELFTH AFFIRMATIVE DEFENSE**

If Answering Defendant violated any rights of the Plaintiff, which is specifically denied, such violation was not arbitrary, willful, intentional, malicious, wanton or reckless.

#### **THIRTEENTH AFFIRMATIVE DEFENSE**

If the Plaintiff has any claims for damages against the Answering Defendant, which are denied, his claims are nonetheless subject to the

statutory limitations on damages set forth in 42 Pa. C.S.A. §8549, 8553 and in the other applicable limitations.

#### **FOURTEENTH AFFIRMATIVE DEFENSE**

If Answering Defendant violated any rights of the Plaintiff, which is specifically denied, Answering Defendant did not know and reasonably need not have known that his conduct violated Plaintiff's rights.

#### **FIFTEENTH AFFIRMATIVE DEFENSE**

All actions taken by the Answering Defendant were justified, privileged and reasonable and in accord with his training as a Pennsylvania State Police Trooper.

#### **SIXTEENTH AFFIRMATIVE DEFENSE**

Any actions taken by Answering Defendant were of the type(s) for which he would have had defenses available at common law.

#### **SEVENTEENTH AFFIRMATIVE DEFENSE**

Any actions taken by Answering Defendant represented conduct which was discretionary and which did not violate clearly established statutory or constitutional rights of which a reasonable person would have known and, further, did not violate any rights of the Plaintiff whatsoever.

#### **EIGHTEENTH AFFIRMATIVE DEFENSE**

There was no violation of the Plaintiff's civil rights such that there was a need for another law enforcement officer to intercede.

**WHEREFORE**, your Answering Defendant Trooper Jamie Lopez respectfully requests that judgment be entered in his favor and against the Plaintiff on the claims asserted, plus an award of attorney's fees and costs.

Dated: March 23, 2018

Respectfully submitted,

LAW OFFICES OF HARRY T. COLEMAN

By: /s/ Harry T. Coleman

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*Attorney for Defendant Trooper  
Jamie Lopez*